



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
2.105

CHAPTER Consumers Rights	SUBCHAPTER Grievance Procedures	EFFECTIVE DATE 5/15/10	NUMBER OF PAGES 6	PAGE NUMBER Page 1 of 6
SUBJECT: Processing Consumer Grievances in State- Operated Psychiatric Hospitals and Habilitation Centers		AUTHORITY: Sections 630.050, 630.135 and 630.200, RSMo. Title VI of the Civil Rights Act of 1964	HISTORY: See Below	
PERSON RESPONSIBLE Director, Consumer Safety			SUNSET DATE: 7/1/13	

PURPOSE: Prescribes procedures for reporting, investigating and processing grievances of alleged violations of consumers' rights.

APPLICATION: Applies to all state-operated psychiatric hospitals and habilitation centers.

(1) As used in this operating regulation, the following terms shall mean:

(A) Grievance: An allegation that a consumer's right has been violated (this specifically excludes rights violations that include a complaint of abuse or neglect, which are to be processed under DOR 2.205);

(B) Consumer rights: Those rights listed in sections 630.110 and 630.115, RSMo, and any additional applicable rights provided by the Civil Rights Act of 1964 and accrediting and certifying agencies, including the Joint Commission and the Centers for Medicare and Medicaid Services (CMS). (See enumeration of rights.)

(C) Resolution: Confirmation by a consumer or the individual acting on his or her behalf of satisfaction with the actions taken in response to a grievance.

(2) It is the responsibility of the head of the facility to ensure that consumer grievances are dealt with in an appropriate and responsive manner, and that the mechanisms described in this operating regulation are in place. This shall include at a minimum:

(A) Provision of training on Consumer Rights and the Grievance Process to all employees in the facility;

(B) Establishment of a Consumer Rights Review Committee (or alternately named committee responsible for this function) to oversee the grievance process and to ensure that the facility is protective of consumer rights. The quorum for a committee meeting shall be in compliance with applicable accreditation and/or certification requirements. The committee's membership shall include at a minimum:

1. A current or former consumer of the facility.
2. A family member or guardian of a current or former consumer.
3. An outside participant who is not a current or former employee of the facility (e.g., Member of Missouri Protection and Advocacy or of a consumer advocacy group, or an otherwise concerned citizen).

4. Three employees of the facility, to include the Facility Title VI Officer (see section (2)(D) below) and the Facility Grievance Contact (see section (2)(C) below).

(C) Appointment of an individual within the facility as the Facility Grievance Contact who is responsible for the following:

1. Processing formal grievances through the steps described in section (5) below;



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2. Reviewing all grievances for abuse and neglect issues. If the Facility Grievance Contact person believes there are abuse or neglect issues s/he shall follow DOR 2.205 and immediately notify the head of the facility of the allegation.

3. Answering any questions or concerns regarding the grievance process raised by consumers, family members/guardians, employees or others;

4. Contacting the guardian in the event of grievances appealed beyond the level of the head of the facility (see section (7)(A) below);

5. Ensuring that all grievance material is kept on file pursuant to the Secretary of State's Retention Schedule (see section (7)(B) below); and

6. Coordinating his or her activities with direction provided by the Consumer Rights Review Committee.

(D) Appointment of an individual within the facility to serve as the Facility Title VI Officer who is responsible for reviewing all dispositions involving grievances alleging impermissible discrimination (i.e., the denial of admission or services because of race, sex, creed, marital status, national origin, handicap or age), and for reporting such grievances and their disposition to the Department of Mental Health's Title VI Officer (Chief of Employee Relations).

(E) Provision of notification to the consumer and/or the individual acting on the consumer's behalf of the grievance process, including whom to contact to file a grievance. For facilities accredited by the Joint Commission or certified by the CMS, such notification shall include the right to lodge grievances directly with the Joint Commission or the Department of Health and Senior Services (DHSS), regardless of whether he or she has first used the department's grievance process, and information on those agencies' phone numbers and addresses.

(3) Facility employees shall address the concerns of the consumers in their care and be responsive to any needs, complaints or allegations of rights violations.

(A) Grievances submitted in writing shall be processed in accordance with section (5) below.

(B) Verbal grievances received by staff do not need to be reduced to writing if a resolution can be achieved that satisfies the consumer or the individual acting on the consumer's behalf. If a resolution cannot be reached within five (5) working days of receiving the grievance or if the consumer or individual acting on behalf of the consumer is not satisfied with the facility's response, a department Grievance Form shall be completed and processed in accordance with section (5) below.

(C) All grievances received that involve potential abuse or neglect shall be processed in accordance with DOR 2.205.

(4) Formal grievances may be filed by either a consumer, or on a consumer's behalf by an employee/volunteer of the facility, a concerned citizen, or a consumer's relative, guardian, or visitor:



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(A) Individuals filing a grievance are encouraged to utilize the department's Grievance Form and to provide that form to an employee assigned to the consumer's treatment unit. It is the responsibility of the employee to provide whatever assistance is requested in completing the department's Grievance Form. In addition, the employee shall ensure that the Grievance Form is provided to the employee in charge of the treatment team assigned to the treatment unit.

(B) Should a grievance be received by any employee of the Department of Mental Health from outside of where the consumer resides, whether orally, by phone, mail, fax, e-mail, or otherwise in writing, it is the responsibility of that employee to ensure the grievance is reduced to writing or attached to the department's Grievance Form and forwarded to the Office of Consumer Safety for processing.

(5) Grievance Steps:

(A) First Step: The employee in charge of the treatment team serving the Treatment Unit to which the consumer is assigned shall attempt to resolve the grievance with the consumer, conferring as necessary with individuals from the team, or the team as a whole. The only exception is if the grievance directly references the employee, in which case resolution of the grievance shall be the responsibility of the employee's immediate supervisor. This process shall be completed within five (5) working days. If a longer period is needed, the consumer or individual acting on the consumer's behalf shall be informed by the employee in charge of the treatment team of the need for additional time, with a written response due no later than a total of ten (10) working days post receipt of the grievance.

1. If the grievance is resolved, the employee shall document its resolution on the Grievance Form.

2. If the grievance is not resolved, and the consumer or individual acting on the consumer's behalf wishes to appeal the employee's attempted resolution, the employee shall ensure that this is documented on the Grievance Form.

3. When the process is complete, the Grievance Form shall be forwarded to Facility Grievance Contact.

(B) Step Two: The Consumer Rights Review Committee or Facility Grievant Contact (if empowered to act on the Committee's behalf and with ready access to Committee membership for review and consultation), shall review all appealed grievances and offer a resolution within ten (10) working days of receiving the Grievance Form.

1. The offered resolution shall be in the form of written correspondence and shall consist of one of the following decisions:

- a. Granting the remedy as specified on the grievance form;
- b. Denying the remedy requested on the grievance form and specifying the reasons for the denial;
- c. Offering another remedy to resolve the grievance with reasons for the alternate specified.



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2. The resolution shall afford the grievant the opportunity to appeal the resolution to the head of the facility within fifteen (15) working days, unless it is the decision of the Consumer Rights Review Committee that the grievance has no connection to the rights established by Missouri or federal law or by accrediting and certifying agencies. If that is the decision, that shall be communicated to the grievant and the grievance shall be considered resolved with no recourse to further appeal.

3. If no appeal is received within the specified time frame, the grievance is considered resolved at this step.

(C) Step 3: The head of the facility shall review all grievances appealed beyond the Consumer Rights Review Committee and offer a resolution within ten (10) working days of receiving the grievant's notice of appeal.

1. The offered resolution shall be in the form of written correspondence and shall consist of one of the following decisions:

- a. Granting the remedy requested;
- b. Denying the remedy requested and specifying the reasons for the denial;
- c. Offering another remedy to resolve the grievance with reasons for the

alternate specified.

2. The resolution shall afford the grievant the opportunity to appeal the decision to the appropriate Division Director or designee, within fifteen (15) working days.

3. If no appeal is received within the specified time frame, the grievance shall be considered resolved at this step.

(D) Step 4: The Division Director or designee shall review all grievances appealed beyond the head of the facility and offer a resolution within fifteen (15) working days of receiving the grievant's notice of appeal.

1. The offered resolution shall be in the form of written correspondence and shall consist of one of the following decisions:

- a. Confirming the decision of the head of the facility and state the reasons for the affirmation.
- b. Reversing the decision of the head of the facility, with reasons for the reversal, and granting the remedy requested by the grievant.
- c. Remanding the grievance to the head of the facility to take certain actions directed by the Division Director or designee, which may include offering other remedies to the consumer.

2. The resolution shall afford the grievant the opportunity to appeal the decision to the Department Director within fifteen (15) working days.

3. If no appeal is received within the specified time frame, the grievance shall be considered resolved at this step.

(E) Step 5: The Department Director shall review all grievances appealed beyond the Division Director or designee and offer a resolution within twenty (20) working days of receiving the grievant's notice of appeal. The offered resolution shall be in the form of written correspondence and shall include one of the alternatives available to the



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Division Director or designee, as set out above in section (5)(D). The offered resolution of the Department Director shall be the final step in the grievance process. No further appeals are available.

(6) If a consumer has more than three (3) written grievances during a twelve (12) month period that are determined to be frivolous and without merit by the Consumer Rights Review Committee, the Committee may process subsequent grievances as follows:

1. In lieu of the grievance steps set out in section (5) above, instructions shall be provided to the consumer's Treatment Team to select an individual(s) to review the consumer's grievances on a weekly basis and to assist the consumer in identifying alternative mechanisms for getting his or her needs met and to identify which of the grievances filed are appropriate for review through the Grievance Process. Grievances that are identified to not be frivolous shall be processed in accordance with section (5) above.

2. Copies of all frivolous Grievance Forms shall be submitted to the Facility Grievance Contact on a monthly basis to ensure that the consumer's rights are being appropriately managed.

3. The Consumers Rights Review Committee shall articulate clear criteria to the consumer for discontinuation of this separate review process, and shall review the consumer's progress on a quarterly basis at a minimum to determine if those criteria have been met.

(7) The head of the facility, Division Director or designee, or Department Director shall give the grievant, the consumer if other than the grievant, and the Facility Grievant Contact copies of decisions at each step to ensure that the facility and the department are timely in their response to consumer allegations of rights violations and that the time frames for the appeal of grievances are being satisfied.

(A) Any grievance appealed beyond the level of the head of the facility shall be provided to the consumer's guardian, if he or she is not already involved in prior resolution efforts.

(B) The original Grievance Form and all additional correspondence shall be kept on file pursuant to the Secretary of State's Retention Schedule.

(8) Should a consumer be discharged before resolution of the grievance, the facility shall communicate with the grievant as to his or her wishes for satisfying the grievance. If no further action is requested by the grievant, the matter shall be considered resolved and documented as such on the department Grievance Form. If the grievant is still desirous of an alternate resolution, the facility shall continue with the opportunities for resolution and appeal contained in this operating regulation, and efforts shall be made to obtain written confirmation of satisfaction with any further resolution offered.



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(9) The Consumer Rights Review Committee shall review aggregate data on consumer grievances to facilitate decision making at a facility level, to determine if there are any trends needing either individual or systemic intervention, and to identify opportunities for performance improvement.

HISTORY: Original DOR effective April 1, 1986. Amendment effective July 1, 2002. Amendment effective September 1, 2003. Amendment effective December 1, 2004. Amendment effective August 15, 2006. Amendment effective May 15, 2010.